

# ORIGINAL

1 J. Andrew Coombs (SBN 123881)

2 *andy@coombspc.com*

3 Annie S. Wang (SBN 243027)

4 *annie@coombspc.com*

5 J. Andrew Coombs, A Prof. Corp.

6 450 N. Brand Blvd., Suite 600

7 Glendale, California 91203-2349

8 Telephone: (818) 291-6444

9 Facsimile: (818) 291-6446

10 Attorneys for Plaintiff Nike, Inc.

11 Henry Schaefer, Esq.

12 *henryschaefer8@yahoo.com*

13 Law Offices of Astanehe & Schaefer

14 819 Eddy Street

15 San Francisco, California 94109

16 Telephone: (415) 771-6174

17 Facsimile: (415) 474-3748

18 Attorney for Defendants Nabil Ismael,

19 Mohammed Ismael, Platinum Bay, Inc.

20 d/b/a Platinum Fashion

21 UNITED STATES DISTRICT COURT  
22 NORTHERN DISTRICT OF CALIFORNIA

23 Nike, Inc.,

24 Plaintiff,

25 v.

26 Nabil Ismael, Mohammed Ismael,  
27 Platinum Bay, Inc. d/b/a Platinum  
28 Fashion, and Does 1 through 10,  
inclusive,

Defendants.

Case No. CV 06-6730 RS

JOINT STIPULATION RE ENTRY  
OF CONSENT DECREE;  
~~PROPOSED~~ CONSENT DECREE  
AND PERMANENT  
INJUNCTION

WHEREAS, Nike, Inc. ("Nike"), having filed a Complaint in this action  
charging Defendants Nabil Ismael, Mohammed Ismael, Platinum Bay, Inc. d/b/a  
Platinum Fashion (collectively "Defendants") with liability for trademark

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1 infringement, trademark dilution, and unfair competition, and the parties hereto  
2 desiring and having agreed to settle the controversy between them.

3 Nike and Defendants, by and through their respective counsels of record,  
4 stipulate and agree as follows:

5 1. That a Permanent Injunction and [Proposed] Consent Decree may be  
6 entered upon the terms set forth below.

7 2. Defendants stipulate not to appeal the Consent Decree entered pursuant to  
8 this Stipulation and hereby waive all rights to appeal from it. Defendants hereby  
9 waive any rights which they may have to request or to have a new trial or any rights  
10 which they may have to otherwise challenge, directly or collaterally, the Injunction  
11 entered pursuant to the terms of this Stipulation, unless there is a breach by Nike of  
12 the Release and Settlement Agreement and this Stipulation.

13 3. Defendants acknowledge that they have completely read the terms of this  
14 Stipulation and [Proposed] Order and fully understand the terms and consequences  
15 of the Stipulation and [Proposed] Order.

16 4. The waiver by a party to this Stipulation of the performance of any  
17 covenant, condition or promise herein shall not invalidate this Stipulation nor shall  
18 any such waiver be construed as a waiver or relinquishment of the performance of  
19 any other covenant, condition or promise in this Stipulation.

20 5. This Stipulation may be amended or modified only by a written instrument  
21 signed by all the Parties.

22 6. The claims for relief, and each of them, alleged by Nike against  
23 Defendants, shall be dismissed with prejudice.

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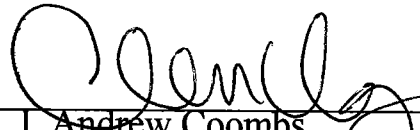
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1           7. This Stipulation shall be binding on and inure to the benefit of the Parties  
2 to it, their successors, heirs or assignees.  
3

4           IT IS SO STIPULATED:

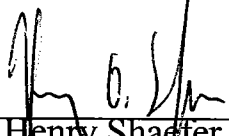
5           Dated: 2/2, 2007  
6

J. Andrew Coombs, A Prof. Corp.

7           By:   
8                 J. Andrew Coombs  
9                 Annie S. Wang  
              Attorneys for Plaintiff Nike, Inc.

10  
11          Dated: 1/23, 2007  
12

Law Offices of Astanehe & Schaefer

13          By:   
14                 Henry Schaefer  
15                 Attorney for Defendants Nabil Ismael,  
16                 Mohammed Ismael, Platinum Bay, Inc.  
              d/b/a Platinum Fashion

17           The Court, having read and considered the Joint Stipulation for Permanent  
18 Injunction and Dismissal that has been executed by Plaintiff Nike, Inc. ("Nike") and  
19 Defendants Nabil Ismael, Mohammed Ismael, Platinum Bay, Inc. d/b/a Platinum  
20 Fashion (collectively "Defendants") in this action, and good cause appearing  
21 therefore, hereby:

22           ORDERS that based on the parties' stipulation and only as to Defendants,  
23 their successors, heirs, and assignees, this Injunction shall be and is hereby entered in  
24 the within action as follows:

25          1) This Court has jurisdiction over the parties to this action and over the subject  
26 matter hereof pursuant to the Lanham Act, 15 U.S.C. § 1051, et seq., and 28 U.S.C.  
27 §§ 1331, 1338 and 1367. Service of process was properly made against Defendants.  
28

1 2) Nike claims that it owns or controls the pertinent rights in and to the  
2 trademarks listed in Exhibit "A" attached hereto and incorporated herein by this  
3 reference (The trademarks identified in Exhibit "A" are collectively referred to  
4 herein as the "Nike Trademarks").

5 3) Nike has alleged that Defendants have made unauthorized uses of the Nike  
6 Trademarks or substantially similar likenesses or colorable imitations thereof.

7 4) Defendants and their agents, servants, employees and all persons in active  
8 concert and participation with them who receive actual notice of the Injunction are  
9 hereby restrained and enjoined from:

10 a) Infringing the Nike Trademarks, either directly or contributorily, in any  
11 manner, including generally, but not limited to manufacturing, importing,  
12 distributing, advertising, selling and/or offering for sale any unauthorized  
13 product which features any of the Nike Trademarks ("Unauthorized  
14 Products"), and, specifically from:

15 i) Importing, manufacturing, distributing, advertising, selling and/or  
16 offering for sale the Unauthorized Products or any other unauthorized  
17 products which picture, reproduce, copy or use the likenesses of or bear  
18 a confusing similarity to any of the Nike Trademarks;

19 ii) Importing, manufacturing, distributing, advertising, selling and/or  
20 offering for sale in connection thereto any unauthorized promotional  
21 materials, labels, packaging or containers which picture, reproduce,  
22 copy or use the likenesses of or bear a confusing similarity to any of the  
23 Nike Trademarks;

24 iii) Engaging in any conduct that tends falsely to represent that, or is  
25 likely to confuse, mislead or deceive purchasers, Defendants' customers  
26 and/or members of the public to believe, the actions of Defendants, the  
27 products sold by Defendants, or Defendants themselves are connected  
28

1 with Nike, are sponsored, approved or licensed by Nike, or are affiliated  
2 with Nike;

3 iv) Affixing, applying, annexing or using in connection with the  
4 importation, manufacture, distribution, advertising, sale and/or offer for  
5 sale or other use of any goods or services, a false description or  
6 representation, including words or other symbols, tending to falsely  
7 describe or represent such goods as being those of Nike.

8 5) Each side shall bear its own fees and costs of suit.

9 6) Except as provided herein, all claims alleged in the Complaint are dismissed  
10 with prejudice.

11 7) This Injunction shall be deemed to have been served upon Defendants at the  
12 time of its execution by the Court.

13 8) The Court finds there is no just reason for delay in entering this Injunction  
14 and, pursuant to Rule 54(a) of the Federal Rules of Civil Procedure, the Court directs  
15 immediate entry of this Injunction against Defendants.

16 9) The Court shall retain jurisdiction of this action to entertain such further  
17 proceedings and to enter such further orders as may be necessary or appropriate to  
18 implement and enforce the provisions of this Injunction.

19 10) The above-captioned action, shall, upon filing by Plaintiff of the Settlement  
20 Agreement, Stipulation for Entry of Judgment and Judgment Pursuant to Stipulation,  
21 and requesting entry of judgment against Defendants, be reopened should  
22 Defendants default under the terms of the Settlement Agreement.

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1 11) This Court shall retain jurisdiction over the Defendants for the purpose of  
2 making further orders necessary or proper for the construction or modification of this  
3 consent decree and judgment; the enforcement hereof; the punishment of any  
4 violations hereof; and for the possible entry of a further Judgment Pursuant to  
5 Stipulation in this action.

6 DATED: February 2, 2007



Hon. Richard Seeborg  
Magistrate Judge, United States District  
Court, Northern District of California

9 PRESENTED BY:

10 J. Andrew Coombs, A Prof. Corp.

11  
12  
13 By: 

J. Andrew Coombs  
Annie S. Wang

14 Attorneys for Plaintiff Nike, Inc.

15  
16 Law Offices of Astanehe & Schaefer

17  
18 By: 

Henry Schaefer

19 Attorney for Defendants Nabil Ismael,  
20 Mohammed Ismael, Platinum Bay, Inc.  
21 d/b/a Platinum Fashion  
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EXHIBIT A

Nike Trademark Registration

MARK	REGISTRATION NUMBER	DATE OF ISSUANCE	CLASS
1. Nike®	1,277,066	May 8, 1984	25
2. Swoosh® Design	1,284,385	July 3, 1984	25
3. Nike® and Swoosh® Design	1,237,469	May 10, 1983	25
4. Nike Air®	1,571,066	December 12, 1989	25
5. Air Jordan®	1,370,283	November 12, 1985	25
6. Air Jordan® Design	1,742,019	December 22, 1992	18, 25
7. Air Jordan® Design	1,558,100	September 26, 1989	25
8. Just Do It®	1,875,307	January 24, 1995	25
9. Nike®	2,196,735	October 13, 1998	14
10. Nike® and Swoosh® Design	2,209,815	December 8, 1998	14



## **PROOF OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California. My business address is 450 North Brand Boulevard, Suite 600, Glendale, California 91203-2349.

On February 2, 2007, I served on the interested parties in this action with the:

### **JOINT STIPULATION RE ENTRY OF CONSENT DECREE; [PROPOSED] CONSENT DECREE AND PERMANENT INJUNCTION**

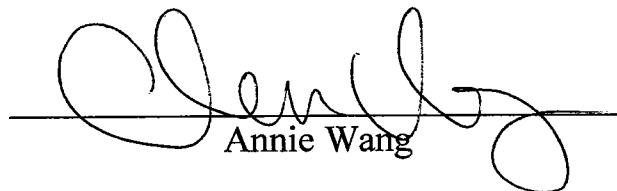
for the following civil action:

Nike, Inc. v. Ismael, et al.

by placing a true copy thereof in an envelope to be immediately sealed thereafter. I am readily familiar with the office's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit.

Henry Schaefer  
Law Offices of Astanehe & Schaefer  
819 Eddy Street  
San Francisco, CA 94109

Place of Mailing: Glendale, California  
Executed on February 2, 2007, at Glendale, California

  
Annie Wang